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September 1, 2006

Office of Indian Energy and Economic Development
Room 20 - South Interior Building
1951 Constitution Avenue N.W.
Washington, DC 20245

ATTN: Section 1813 ROW Study

Dear Sir or Madam:

Please find enclosed comments from the Pueblo of Acoma to the draft report intended for Congress and titled: Energy Policy Act of 2005: Section 1813, Indian Land Rights-of-Way Study. These comments are made upon reading of the document and after the Albuquerque consultation with representatives from the Department of Energy and the Department of the Interior ("Departments") held on August 30, 2006. **The Pueblo of Acoma respectfully request that the Departments, in their final report to Congress, recommend that no legislative action for Rights-of-Ways ("ROW") on Indian lands be taken. Furthermore, we request that the Departments omit the options contained in the Draft Report, as they are unnecessary for maintaining the tribal consent requirement contained in 25 CFR §169.3(a). The tribal consent requirement strengthens self-determination and tribal sovereignty doctrines recognized in federal law and policy.** Congress should not be asked to reconsider existing policy regarding ROWs on Indian lands. We request that the draft report be revised to make such a recommendation.

The Pueblo of Acoma is situated in the Northwestern part of New Mexico. Its land base consists of 448,033 acres and the 2000 census showed a population of 2,802. The northern part of tribal land is bisected by transportation corridors (Burlington Northern Santa Fe Railroad and Interstate I-40 Highway) and with major utility lines (El Paso Natural Gas Pipeline, Transwestern Gas Pipeline, QWEST telephone line, and the Continental Divide Electric Cooperative, Inc., power line). During the last century, rights-of-ways were consummated between the Pueblo of Acoma and electric and gas companies. Negotiations for renewals continue to be an element of tribal sovereignty and have proven to be beneficial in sustaining functions of the Pueblo of Acoma government.

With regard to rights-of-ways, our main tribal comments include:

1. **Tribal Sovereignty and Self-Determination Must Be Preserved.** The sovereignty and self-determination for the Pueblo of Acoma must be understood and respected. In practicing tribal self-governance, the Pueblo of Acoma negotiates the terms of its ROWs. Additionally, the Pueblo of Acoma enacted a tribal tax as part of its Law and Order Code and applies this to electric and gas companies. Prior and informed consent must be obtained from the tribe for any right-of-way crossing Pueblo of Acoma land. **The Pueblo of Acoma does not agree to any condemnation of tribal land.** Such action would severely disregard tribal sovereignty.
2. **Tribal ROW Negotiations are Successful and Pose No Harm to Consumers or National Security.** Rights-of-ways are negotiated by the Pueblo of Acoma and is currently a workable process. It is sometimes an expensive and time consuming process but contractual agreements are concluded in conformance with Title 25 CFR and in coordination with the Bureau of Indian Affairs. There is no immediate need for federal intervention and/or no need for a congressional fix. There must be transparency in any rights-of-way negotiation process and the market forces must work effectively.
3. **Limited Case Studies Do Not Acknowledge Distinct Tribal Values and Circumstances.** The case studies in the draft report are very limited and not comprehensive enough to capture the uniqueness of tribes locally and nationally. For instance, the Pueblo of Acoma is the owner of its land grant, which the United States quit claimed to the tribe. This type of land status is not noted in the draft report. The Pueblo of Acoma land is inalienable and hence not marketable. It is unrealistic to determine a price per acre for Pueblo of Acoma tribal land.

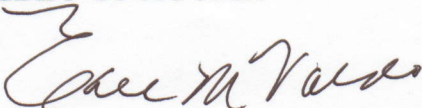
The Pueblo of Acoma is a member of the Council of Energy Resource Tribes and of the National Congress of American Indians. We support their analyses and comments regarding Section 1813 DOI/DOE Rights-of-way draft report.

For the foregoing reasons, the Pueblo requests that the Departments, in their Final Report to Congress, take the position that tribes have the right to negotiate ROW terms and that no changes to the tribal consent requirement be taken now or in the future.

If you should have any questions or require additional information, please contact Petuuche Gilbert, Realty & Natural Resources Officer at (505) 552-6604.

Sincerely,

PUEBLO OF ACOMA


for Jason Johnson
Governor